

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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OFFICE OF THE SECRETARY

In the Matter of)

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Federal-State Joint Board on)

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Universal Service)

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CC Docket No. 96-45

REPLY COMMENTS OF AT&T CORP.

AT&T Corp. ("AT&T") hereby submits its reply comments in the above-captioned proceeding.

INTRODUCTION

AT&T urges the Commission to resolve the problems inherent in the administration of the high cost Universal Service Fund ("USF") that the Commission identified in the Further Notice in a manner that imposes minimal administrative costs on carriers and is competitively neutral. If the Commission adopts a combined interstate/intrastate revenues contribution base -- as recommended by the Joint Board -- it will expand the USF contribution base and decrease the assessment rate. Using this approach, the Commission would not have to consider the complex and potentially unworkable mechanisms for separating interstate and intrastate wireless revenues set forth by some parties. The Commission also should recognize the competitive benefits of limiting support to primary connections, which would obviate the need for minimum local usage requirements. Finally, the Commission should amend or clarify its rules to allow competitive eligible telecommunications carriers ("ETCs") to provide regularly updated USF support information and thereby receive support in a timely manner.

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I. THE COMMISSION SHOULD ADOPT THE JOINT BOARD'S RECOMMENDATION TO ASSESS USF SUPPORT ON COMBINED INTERSTATE/INTRASTATE REVENUES.

A number of commenters, including Comcast, BellSouth, GTE, and NTCA, join AT&T in the view that basing contributions on total interstate/intrastate revenues will liberate wireless carriers from the impracticable exercise of separating their revenues, reduce distorted contribution rates for individual carriers, and expand the USF funding base.^{1/} The alternative solutions that some parties present demonstrate a fundamental misunderstanding of the difficulty wireless carriers have experienced under the current jurisdictional assessment and recovery scheme for the USF. For example, BellSouth's suggestion that the good faith estimate approach is adequate and that no guidelines are needed to prevent inequities or to guard against abuses has no basis in reality.^{2/} The Commission's impetus for adopting the safe harbor guidelines in the Memorandum Opinion and Order accompanying the Further Notice was its acknowledgment of the well-documented quandary facing wireless carriers when they tried to separate interstate revenues from intrastate revenues for purposes of the USF.^{3/} Indeed, the wide divergence in

^{1/} See Comments of AT&T Corp. at 2-3; Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Second Recommended Decision, DA No. 98-2410, ¶ 63 (rel. November 25, 1998) ("Second Recommended Decision"); Comments of AT&T Corp. at 6-7 (filed December 23, 1998); see also Comcast Comments at 8, 19-20; BellSouth Comments at 3; GTE Comments at 5; and NTCA Comments at 2.

^{2/} BellSouth Comments at 3, 6-7.

^{3/} See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 98-278, ¶¶ 6-15 (rel. Oct. 26, 1998), 63 Fed. Reg. 68224 (pub. Dec. 10, 1998) ("Memorandum Opinion and Order" or "Further Notice").

estimated actual percentages of interstate revenues set forth in this proceeding amply evidences the opportunity for abuse when reporting revenues.^{4/}

In the event that the combined revenues solution and, in the alternative, optional safe harbor percentages are not adopted, other commenters propose unworkable or administratively burdensome options for deriving wireless carriers' interstate and intrastate revenues. For example, USTA's proposal that individual "carrier owned data" should serve as the basis for reporting interstate revenues ignores the lack of guidelines for what constitutes "carrier owned data."^{5/} Similarly, NTCA's proposal that, through industry cooperation, wireless carriers could develop reliable "sampling data" is based on an approach "accepted in the wireline industry for determining relative jurisdictional usage"^{6/} and has no applicability to wireless operations. The type of information relied upon by NTCA simply is not available for wireless traffic. Finally, Comcast presents incredibly burdensome methods for determining appropriate revenue percentages, which involve measuring and auditing revenues through designated trunk groups and filing USF worksheets by MTAs.^{7/} Different carriers' network configurations vary greatly and this information is not typically shared among competing wireless providers. Moreover, reporting by MTAs would introduce yet another layer of regulatory requirements into the USF.

^{4/} CTIA states that the actual percentage of interstate revenues is between five and six percent, while Comcast states that fifteen percent is a "conservative" estimate. See CTIA Comments at 7-8; Comcast Comments at 26. Comcast also states that the amount of interstate revenue allocation reported according to the "good faith" approach vary by more than 300 percent. Comcast Comments at 11.

^{5/} USTA Comments at 2.

^{6/} NTCA Comments at 4 (emphasis added).

^{7/} Comcast Comments at 26-28.

The Commission must reject proposals that would disproportionately burden wireless carriers and increase the costs of compliance with the USF without achieving substantial benefits.

II. MINIMUM USAGE REQUIREMENTS AND AFFORDABILITY CONSIDERATIONS FOR THE BASIC SERVICES PACKAGE ARE UNNECESSARY IF USF SUPPORT IS LIMITED TO PRIMARY CONNECTIONS.

A number of carriers urge the Commission not to adopt a minimum local usage component as part of an ETC's basic service package because, as the Commission has recognized, it is extremely difficult to determine the appropriate amount of local usage without simultaneously erecting barriers to competitive and technologically diverse service offerings.^{8/} While AT&T concurs that attempting to establish the correct balance is fraught with problems, it believes that only if the Commission restricts the availability of USF support to a customer's primary connection can it forgo usage requirements. As AirTouch explains, the Commission's continued subsidization of second lines would exacerbate ILEC market power by giving ILECs incentives to offer "bare minimum" service at reduced rates simply to qualify for the subsidy.^{9/}

In a competitive market, the combination of limiting support to primary connections and declining to quantify the amount of local usage in a basic service package allows the customer to cast his or her "vote" in the marketplace for the carrier that offers the service plan that suits the customer's "basic" telecommunications needs and avoids predetermining which carriers, based on technology, may compete to provide such services. In addition, declining to support multiple

^{8/} See, e.g., Bell Atlantic Comments at 5-7; Western Wireless Comments at 22-25; AirTouch Comments at 9-12.

^{9/} See AirTouch Comments at 11-12.

lines would help considerably in keeping the size of the USF under control without harming Congress's or the Commission's objective of ensuring widespread and affordable access to telecommunications services.

In proposing minimum usage requirements, several commenters fail to take into account the need for competitive neutrality in the Commission's USF rules. For example, although SBC acknowledges that high or low usage levels "can significantly affect competition among different technologies," it urges the Commission to "set a minimum level of usage for the basic service package that is the same for all [ETCs]."^{10/} Moreover, SBC asks the Commission to "eliminate subsidies for customers who are subscribing to regular wireless rate plans available throughout the licensed service area" and questions the Commission's ability to identify a wireless customer as one eligible for high cost support. Rather than countenance SBC's anticompetitive suggestions, the Commission should reaffirm its position that "any telecommunications carrier using any technology, including wireless technology, is eligible to receive universal service support if it meets the criteria under section 214 (e)(1) [and] any wholesale exclusion of a class of carriers by the Commission would be inconsistent with the language of the statute and the pro-competitive goals of the 1996 Act."^{11/}

AT&T also disagrees with GTE's contention that "affordability" -- as established by each state -- should be a determinative factor when evaluating the eligibility for support of an ETC's basic service package.^{12/} As a threshold matter, GTE's assertion that the FCC agrees that

^{10/} SBC Comments at 7.

^{11/} Universal Service Order, 12 FCC Rcd at 8858, ¶ 145 (May 8, 1997).

^{12/} GTE Comments at 16.

affordability should be left to states is misplaced. GTE refers to the Commission's discussion of affordability in the Universal Service Order that is unrelated to any ETC requirements.^{13/} In any event, as AirTouch notes, carriers will not attract subscribers while charging unaffordable rates, which obviates the need to expend resources on affordability determinations at either the state or federal level.^{14/} In a competitive market, ETCs should be free to offer price plans similar or different from the ILEC, rather than being hindered by price regulation in the context of universal service.

GTE's proposal would unnecessarily render any plan that deviates from the arbitrary "affordable" rate ineligible for support. Using GTE's example, a wireless carrier may offer a package for \$25.00 per month, which includes unlimited night and weekend usage, and the customer may choose to redirect his or her local calling accordingly to gain the benefit of mobility. If a state determined that \$20.00 is the affordability threshold, however, the wireless service offering is ineligible despite customer demand.

AT&T concurs with AirTouch that local usage requirements are not necessary to avoid an unfair competitive advantage for wireless carriers or others who have lower basic access costs and higher usage based costs.^{15/} As AirTouch explains, the Commission appears to confuse the two roles of a local usage measurement. Specifically, the cost proxy models include a local usage measurement so as to assign costs neutrally between access and usage and to avoid favoring a technology. The development of local usage input values for the cost proxy models

^{13/} Id., citing Universal Service Order, 12 FCC Rcd at 8790-8791, ¶ 23.

^{14/} AirTouch Comments at 10-11.

^{15/} See id. at 12.

facilitates the calculation of the cost of providing universal service for high cost areas in a competitive local exchange market and the amount of support necessary for the high cost fund, ensuring that this portion of the USF is adequate to meet consumer needs. Whether carriers must offer an amount of local usage on a flat-rated basis in order to be eligible for support, however, is an entirely different issue. As noted above, the best solution is for the Commission to provide high cost support only to primary lines and allow consumers to select the service option that best suits their calling needs.

If the Commission nevertheless decides to continue to provide support for multiple connections in the household, it will be required to define, in a competitively neutral manner, a basic service package that every wireless and wireline ETC must provide. The Commission could accomplish this by investigating the crossover point between wireless and wireline technologies in each serving area and, thus, ensuring that neither technology is favored in setting the minimum amount of local usage required. Such an investigation would be extremely complex and burdensome, but would be necessary to ensure competitive neutrality if the Commission provides support for multiple lines. In light of the administrative burdens involved in developing minimum local usage requirements, AT&T reiterates that the Commission should limit USF support to primary connections.

III. TO ENSURE COMPETITIVE NEUTRALITY, THE COMMISSION MUST ELIMINATE THE DELAY BETWEEN PROVISION OF SERVICE AND RECOVERY OF USF SUPPORT.

As Western Wireless has explained, the Commission must eliminate the delay between a competitive ETC's provision of service and recovery of USF support. CTIA emphasizes, and AT&T agrees, that competitive wireless ETCs must be provided the same right as ILECs to

submit updated subscriber information on a rolling or quarterly basis for the purpose of calculating the number of consumers served within a universal service study area.^{16/} Centennial's experience in Puerto Rico bolsters Western Wireless's statement that CLECs are not receiving sufficient universal service support in a timely manner under the Commission's current rules.^{17/} Centennial documents that it will lose \$300,000 in universal service this year and provides further evidence of the detrimental effect on competition that the current rules foster.^{18/} The principle of competitive neutrality dictates that the Commission enable wireless ETCs to enter the universal service high cost support funding system at frequent intervals and to receive support payments based on recent or current customer counts.

^{16/} See CTIA Comments at 13.

^{17/} See Centennial Comments at 2-5.

^{18/} See id. at 3-4.

CONCLUSION


For the reasons set forth above and in AT&T's Comments, the Commission should adopt a combined revenues contribution base for the USF or, in the alternative, an optional safe harbor percentage. In addition, the Commission should support only primary connections, which would obviate the need to adopt controversial and potentially anticompetitive minimum local usage requirements. Finally, AT&T urges the Commission to eradicate promptly the provisions in its universal service rules that impede competitive ETCs from providing supported services.

Respectfully submitted,

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January 25, 1999

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I, Elizabeth A. Dees, hereby certify that on this 25th day of January, 1999, I caused copies of the foregoing "Reply Comments of AT&T Corp." to be sent to the following by hand delivery:

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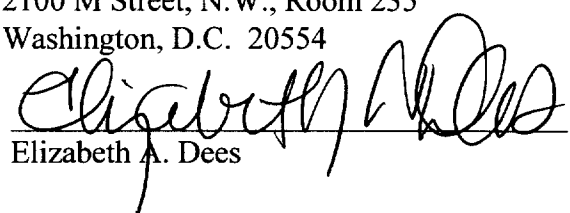
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